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SENATE

{ REPORT  
110–172

### LEWIS AND CLARK MOUNT HOOD WILDERNESS ACT OF 2007

SEPTEMBER 17, 2007.—Ordered to be printed

Mr. BINGAMAN, from the Committee on Energy and Natural  
Resources, submitted the following

### R E P O R T

[To accompany S. 647]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 647) to designate certain land in the State of Oregon as wilderness, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Lewis and Clark Mount Hood Wilderness Act of 2007”.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.  
Sec. 2. Definitions.

#### TITLE I—PROTECTED AREAS

##### Subtitle A—Designation of Wilderness Areas

Sec. 101. Designation of Lewis and Clark Mount Hood wilderness areas.  
Sec. 102. Richard L. Kohnstamm Memorial Area.  
Sec. 103. Potential wilderness area; additions to wilderness areas.  
Sec. 104. Maps and legal descriptions.  
Sec. 105. Administration.  
Sec. 106. Buffer zones.  
Sec. 107. Fish and wildlife.  
Sec. 108. Fire, insects, and diseases.  
Sec. 109. Withdrawal.

##### Subtitle B—Designation of Streams for Wild and Scenic River Protection in the Mount Hood Area

Sec. 111. Wild and Scenic River designations, Mount Hood National Forest.  
Sec. 112. Protection for Hood River, Oregon.

##### Subtitle C—Mount Hood National Recreation Area

Sec. 121. Mount Hood National Recreation Area.

Subtitle D—Protections for Crystal Springs, Upper Big Bottom, and Cultus Creek

- Sec. 131. Crystal Springs Watershed Special Resources Management Unit.  
 Sec. 132. Protections for Upper Big Bottom and Cultus Creek.

TITLE II—LAND EXCHANGES

Subtitle A—Cooper Spur-Government Camp Land Exchange

- Sec. 201. Definitions.  
 Sec. 202. Cooper Spur-Government Camp land exchange.

Subtitle B—Port of Cascade Locks Land Exchange

- Sec. 211. Definitions.  
 Sec. 212. Land exchange, Port of Cascade Locks-Pacific Crest National Scenic Trail.

Subtitle C—Hunchback Mountain Land Exchange and Boundary Adjustment

- Sec. 221. Definitions.  
 Sec. 222. Hunchback Mountain land exchange.  
 Sec. 223. Boundary adjustment.

Subtitle D—Conditions on Development of Federal Land

- Sec. 231. Improved natural disaster preparedness.

TITLE III—TRIBAL PROVISIONS; PLANNING AND STUDIES

- Sec. 301. Transportation plan.  
 Sec. 302. Mount Hood National Forest stewardship strategy.  
 Sec. 303. Local and tribal relationships.  
 Sec. 304. Recreational uses.

**SEC. 2. DEFINITIONS.**

In this Act:

- (1) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.  
 (2) STATE.—The term “State” means the State of Oregon.

## TITLE I—PROTECTED AREAS

### Subtitle A—Designation of Wilderness Areas

**SEC. 101. DESIGNATION OF LEWIS AND CLARK MOUNT HOOD WILDERNESS AREAS.**

In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the following areas in the State of Oregon are designated as wilderness areas and as components of the National Wilderness Preservation System:

(1) BADGER CREEK WILDERNESS ADDITIONS.—Certain Federal land managed by the Forest Service, comprising approximately 4,140 acres, as generally depicted on the maps entitled “Badger Creek Wilderness-Badger Creek Additions” and “Badger Creek Wilderness-Bonney Butte”, dated July 16, 2007, which is incorporated in, and considered to be a part of, the Badger Creek Wilderness, as designated by section 3(3) of the Oregon Wilderness Act of 1984 (16 U.S.C. 1132 note; 98 Stat. 273).

(2) BULL OF THE WOODS WILDERNESS ADDITION.—Certain Federal land managed by the Forest Service, comprising approximately 10,180 acres, as generally depicted on the map entitled “Bull of the Woods Wilderness-Bull of the Woods Additions”, dated July 16, 2007, which is incorporated in, and considered to be a part of, the Bull of the Woods Wilderness, as designated by section 3(4) of the Oregon Wilderness Act of 1984 (16 U.S.C. 1132 note; 98 Stat. 273).

(3) CLACKAMAS WILDERNESS.—Certain Federal land managed by the Forest Service, comprising approximately 9,470 acres, as generally depicted on the maps entitled “Clackamas Wilderness-Big Bottom”, “Clackamas Wilderness-Clackamas Canyon”, “Clackamas Wilderness-Memaloose Lake”, “Clackamas Wilderness-Sisi Butte”, and “Clackamas Wilderness-South Fork Clackamas”, dated July 16, 2007, which shall be known as the “Clackamas Wilderness”.

(4) MARK O. HATFIELD WILDERNESS ADDITIONS.—Certain Federal land managed by the Forest Service, comprising approximately 25,960 acres, as generally depicted on the maps entitled “Mark O. Hatfield Wilderness-Gorge Face” and “Mark O. Hatfield Wilderness-Larch Mountain”, dated July 16, 2007, which is incorporated in, and considered to be a part of, the Mark O. Hatfield Wilderness, as designated by section 3(1) of the Oregon Wilderness Act of 1984 (16 U.S.C. 1132 note; 98 Stat. 273).

(5) MOUNT HOOD WILDERNESS ADDITIONS.—Certain Federal land managed by the Forest Service, comprising approximately 18,450 acres, as generally depicted on the maps entitled “Mount Hood Wilderness-Barlow Butte”, “Mount Hood Wilderness-Elk Cove/Mazama”, “Mount Hood Wilderness-Richard L.

Kohnstamm Memorial Area”, “Mount Hood Wilderness-Sand Canyon”, “Mount Hood Wilderness-Sandy Additions”, “Mount Hood Wilderness-Twin Lakes”, and “Mount Hood Wilderness-White River”, dated July 16, 2007, and the map entitled “Mount Hood Wilderness-Cloud Cap”, dated July 20, 2007, which is incorporated in, and considered to be a part of, the Mount Hood Wilderness, as designated under section 3(a) of the Wilderness Act (16 U.S.C. 1132(a)) and enlarged by section 3(d) of the Endangered American Wilderness Act of 1978 (16 U.S.C. 1132 note; 92 Stat. 43).

(6) **ROARING RIVER WILDERNESS.**—Certain Federal land managed by the Forest Service, comprising approximately 36,550 acres, as generally depicted on the map entitled “Roaring River Wilderness-Roaring River Wilderness”, dated July 16, 2007, which shall be known as the “Roaring River Wilderness”.

(7) **SALMON-HUCKLEBERRY WILDERNESS ADDITIONS.**—Certain Federal land managed by the Forest Service, comprising approximately 16,620 acres, as generally depicted on the maps entitled “Salmon-Huckleberry Wilderness-Alder Creek Additions”, “Salmon-Huckleberry Wilderness-Eagle Creek Addition”, “Salmon-Huckleberry Wilderness-Hunchback Mountain”, “Salmon-Huckleberry Wilderness-Inch Creek”, “Salmon-Huckleberry Wilderness-Mirror Lake”, and “Salmon-Huckleberry Wilderness-Salmon River Meadows”, dated July 16, 2007, which is incorporated in, and considered to be a part of, the Salmon-Huckleberry Wilderness, as designated by section 3(2) of the Oregon Wilderness Act of 1984 (16 U.S.C. 1132 note; 98 Stat. 273).

(8) **LOWER WHITE RIVER WILDERNESS.**—Certain Federal land managed by the Forest Service and Bureau of Land Management, comprising approximately 2,870 acres, as generally depicted on the map entitled “Lower White River Wilderness-Lower White River”, dated July 16, 2007, which shall be known as the “Lower White River Wilderness”.

#### **SEC. 102. RICHARD L. KOHNSTAMM MEMORIAL AREA.**

Certain Federal land managed by the Forest Service, as generally depicted on the map entitled “Mount Hood Wilderness-Richard L. Kohnstamm Memorial Area”, dated July 16, 2007, is designated as the “Richard L. Kohnstamm Memorial Area”.

#### **SEC. 103. POTENTIAL WILDERNESS AREA; ADDITIONS TO WILDERNESS AREAS.**

##### **(a) ROARING RIVER POTENTIAL WILDERNESS AREA.—**

(1) **IN GENERAL.**—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), certain Federal land managed by the Forest Service, comprising approximately 900 acres identified as “Potential Wilderness” on the map entitled “Roaring River Wilderness”, dated July 16, 2007, is designated as a potential wilderness area.

(2) **MANAGEMENT.**—The potential wilderness area designated by paragraph (1) shall be managed in accordance with section 4 of the Wilderness Act (16 U.S.C. 1133).

(3) **DESIGNATION AS WILDERNESS.**—On the date on which the Secretary publishes in the Federal Register notice that the conditions in the potential wilderness area designated by paragraph (1) are compatible with the Wilderness Act (16 U.S.C. 1131 et seq.), the potential wilderness shall be—

(A) designated as wilderness and as a component of the National Wilderness Preservation System; and

(B) incorporated into the Roaring River Wilderness designated by section 101(6).

(b) **ADDITION TO THE MOUNT HOOD WILDERNESS.**—On completion of the land exchange under section 202, certain Federal land managed by the Forest Service, comprising approximately 1,710 acres, as generally depicted on the map entitled “Mount Hood Wilderness-Tilly Jane”, dated July 20, 2007, shall be incorporated in, and considered to be a part of, the Mount Hood Wilderness, as designated under section 3(a) of the Wilderness Act (16 U.S.C. 1132(a)) and enlarged by section 3(d) of the Endangered American Wilderness Act of 1978 (16 U.S.C. 1132 note; 92 Stat. 43) and section 101(5).

(c) **ADDITION TO THE SALMON-HUCKLEBERRY WILDERNESS.**—On acquisition by the United States, the approximately 160 acres of land identified as “Land to be acquired by USFS” on the map entitled “Hunchback Mountain Land Exchange, Clackamas County”, dated June 2006, shall be incorporated in, and considered to be a part of, the Salmon-Huckleberry Wilderness, as designated by section 3(2) of the Oregon Wilderness Act of 1984 (16 U.S.C. 1132 note; 98 Stat. 273) and enlarged by section 101(7).

**SEC. 104. MAPS AND LEGAL DESCRIPTIONS.**

(a) **IN GENERAL.**—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and a legal description of each wilderness area and potential wilderness area designated by this title, with—

- (1) the Committee on Energy and Natural Resources of the Senate; and
- (2) the Committee on Natural Resources of the House of Representatives.

(b) **FORCE OF LAW.**—The maps and legal descriptions filed under subsection (a) shall have the same force and effect as if included in this Act, except that the Secretary may correct typographical errors in the maps and legal descriptions.

(c) **PUBLIC AVAILABILITY.**—Each map and legal description filed under subsection (a) shall be on file and available for public inspection in the appropriate offices of the Forest Service and Bureau of Land Management.

(d) **DESCRIPTION OF LAND.**—The boundaries of the areas designated as wilderness by section 101 that are immediately adjacent to a utility right-of-way or a Federal Energy Regulatory Commission project boundary shall be 100 feet from the boundary of the right-of-way or the project boundary.

**SEC. 105. ADMINISTRATION.**

(a) **IN GENERAL.**—Subject to valid existing rights, each area designated as wilderness by this title shall be administered by the Secretary that has jurisdiction over the land within the wilderness, in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), except that—

- (1) any reference in that Act to the effective date shall be considered to be a reference to the date of enactment of this Act; and
- (2) any reference in that Act to the Secretary of Agriculture shall be considered to be a reference to the Secretary that has jurisdiction over the land within the wilderness.

(b) **INCORPORATION OF ACQUIRED LAND AND INTERESTS.**—Any land within the boundary of a wilderness area designated by this Act that is acquired by the United States shall—

- (1) become part of the wilderness area in which the land is located; and
- (2) be managed in accordance with this Act, the Wilderness Act (16 U.S.C. 1131 et seq.), and any other applicable law.

**SEC. 106. BUFFER ZONES.**

(a) **IN GENERAL.**—As provided in the Oregon Wilderness Act of 1984 (16 U.S.C. 1132 note; Public Law 98–328), Congress does not intend for designation of wilderness areas in the State under this title to lead to the creation of protective perimeters or buffer zones around each wilderness area.

(b) **ACTIVITIES OR USES UP TO BOUNDARIES.**—The fact that nonwilderness activities or uses can be seen or heard from within a wilderness area shall not, of itself, preclude the activities or uses up to the boundary of the wilderness area.

**SEC. 107. FISH AND WILDLIFE.**

Nothing in this Act affects the jurisdiction or responsibilities of the State with respect to fish and wildlife.

**SEC. 108. FIRE, INSECTS, AND DISEASES.**

As provided in section 4(d)(1) of the Wilderness Act (16 U.S.C. 1133(d)(1)), within the wilderness areas designated by this Act, the Secretary that has jurisdiction over the land within the wilderness (referred to in this section as the “Secretary”) may take such measures as are necessary to control fire, insects, and diseases, subject to such terms and conditions as the Secretary determines to be desirable and appropriate.

**SEC. 109. WITHDRAWAL.**

Subject to valid rights in existence on the date of enactment of this Act, the Federal land designated as wilderness by this subtitle is withdrawn from all forms of—

- (1) entry, appropriation, or disposal under the public land laws;
- (2) location, entry, and patent under the mining laws; and
- (3) disposition under all laws pertaining to mineral and geothermal leasing or mineral materials.

## Subtitle B—Designation of Streams for Wild and Scenic River Protection in the Mount Hood Area

**SEC. 111. WILD AND SCENIC RIVER DESIGNATIONS, MOUNT HOOD NATIONAL FOREST.**

(a) **IN GENERAL.**—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended—

(1) by redesignating paragraph (167) (relating to the Musconetcong River, New Jersey) as paragraph (169);

(2) by designating the undesignated paragraph relating to the White Salmon River, Washington, as paragraph (167);

(3) by designating the undesignated paragraph relating to the Black Butte River, California, as paragraph (168); and

(4) by adding at the end the following:

“(170) SOUTH FORK CLACKAMAS RIVER.—The 4.2-mile segment of the South Fork Clackamas River from its confluence with the East Fork of the South Fork Clackamas to its confluence with the Clackamas River, to be administered by the Secretary of Agriculture as a wild river.

“(171) EAGLE CREEK.—The 8.3-mile segment of Eagle Creek from its headwaters to the Mount Hood National Forest boundary, to be administered by the Secretary of Agriculture as a wild river.

“(172) MIDDLE FORK HOOD RIVER.—The 3.7-mile segment of the Middle Fork Hood River from the confluence of Clear and Coe Branches to the north section line of section 11, township 1 south, range 9 east, to be administered by the Secretary of Agriculture as a scenic river.

“(173) SOUTH FORK ROARING RIVER.—The 4.6-mile segment of the South Fork Roaring River from its headwaters to its confluence with Roaring River, to be administered by the Secretary of Agriculture as a wild river.

“(174) ZIG ZAG RIVER.—The 4.3-mile segment of the Zig Zag River from its headwaters to the Mount Hood Wilderness boundary, to be administered by the Secretary of Agriculture as a wild river.

“(175) FIFTEENMILE CREEK.—

“(A) IN GENERAL.—The 11.1-mile segment of Fifteenmile Creek from its source at Senecal Spring to the southern edge of the northwest quarter of the northwest quarter of section 20, township 2 south, range 12 east, to be administered by the Secretary of Agriculture in the following classes:

“(i) the 2.6-mile segment from its source at Senecal Spring to the Badger Creek Wilderness boundary, as a wild river;

“(ii) the 0.4-mile segment from the Badger Creek Wilderness boundary to the point 0.4 miles downstream, as a scenic river;

“(iii) the 7.9-mile segment from the point 0.4 miles downstream of the Badger Creek Wilderness boundary to the western edge of section 20, township 2 south, range 12 east as a wild river; and

“(iv) the 0.2-mile segment from the western edge of section 20, township 2 south, range 12 east, to the southern edge of the northwest quarter of the northwest quarter of section 20, township 2 south, range 12 east as a scenic river.

“(B) INCLUSIONS.—Notwithstanding section 3(b), the lateral boundaries of both the wild river area and the scenic river area along Fifteenmile Creek shall include an average of not more than 640 acres per mile measured from the ordinary high water mark on both sides of the river.

“(176) EAST FORK HOOD RIVER.—The 13.5-mile segment of the East Fork Hood River from Oregon State Highway 35 to the Mount Hood National Forest boundary, to be administered by the Secretary of Agriculture as a recreational river.

“(177) COLLAWASH RIVER.—The 17.8-mile segment of the Collawash River from the headwaters of the East Fork Collawash to the confluence of the mainstream of the Collawash River with the Clackamas River, to be administered by the Secretary of Agriculture in the following classes:

“(A) The 11.0-mile segment from the headwaters of the East Fork Collawash River to Buckeye Creek, as a scenic river.

“(B) The 6.8-mile segment from Buckeye Creek to the Clackamas River, as a recreational river.

“(178) FISH CREEK.—The 13.5-mile segment of Fish Creek from its headwaters to the confluence with the Clackamas River, to be administered by the Secretary of Agriculture as a recreational river.”.

(b) EFFECT.—The amendments made by subsection (a) do not affect valid existing water rights.

#### SEC. 112. PROTECTION FOR HOOD RIVER, OREGON.

Section 13(a)(4) of the “Columbia River Gorge National Scenic Area Act” (16 U.S.C. 544k(a)(4)) is amended by striking “for a period not to exceed twenty years from the date of enactment of this Act,”.

## Subtitle C—Mount Hood National Recreation Area

### SEC. 121. MOUNT HOOD NATIONAL RECREATION AREA.

(a) DESIGNATION.—To provide for the protection, preservation, and enhancement of recreational, ecological, scenic, cultural, watershed, and fish and wildlife values, there is established the Mount Hood National Recreation Area within the Mount Hood National Forest.

(b) BOUNDARY.—The Mount Hood National Recreation Area shall consist of certain Federal land managed by the Forest Service and Bureau of Land Management, comprising approximately 34,550 acres, as generally depicted on the maps entitled “National Recreation Areas-Mount Hood NRA”, “National Recreation Areas-Fifteenmile Creek NRA”, and “National Recreation Areas-Shellrock Mountain”, dated February 2007.

#### (c) MAP AND LEGAL DESCRIPTION.—

(1) SUBMISSION OF LEGAL DESCRIPTION.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and a legal description of the Mount Hood National Recreation Area with—

(A) the Committee on Energy and Natural Resources of the Senate; and  
(B) the Committee on Natural Resources of the House of Representatives.

(2) FORCE OF LAW.—The map and legal description filed under paragraph (1) shall have the same force and effect as if included in this Act, except that the Secretary may correct typographical errors in the map and the legal description.

(3) PUBLIC AVAILABILITY.—The map and legal description filed under paragraph (1) shall be on file and available for public inspection in the appropriate offices of the Forest Service.

#### (d) ADMINISTRATION.—

(1) IN GENERAL.—The Secretary shall—

(A) administer the Mount Hood National Recreation Area—

(i) in accordance with the laws (including regulations) and rules applicable to the National Forest System; and

(ii) consistent with the purposes described in subsection (a); and

(B) only allow uses of the Mount Hood National Recreation Area that are consistent with the purposes described in subsection (a).

(2) APPLICABLE LAW.—Any portion of a wilderness area designated by subtitle A that is located within the Mount Hood National Recreation Area shall be administered in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.).

(e) TIMBER.—The cutting, sale, or removal of timber within the Mount Hood National Recreation Area may be permitted—

(1) to the extent necessary to improve the health of the forest in a manner that—

(A) maximizes the retention of large trees—

(i) as appropriate to the forest type; and

(ii) to the extent that the trees promote stands that are fire-resilient and healthy;

(B) improves the habitats of threatened, endangered, or sensitive species;

or

(C) maintains or restores the composition and structure of the ecosystem by reducing the risk of uncharacteristic wildfire;

(2) to accomplish an approved management activity in furtherance of the purposes established by this subtitle, if the cutting, sale, or removal of timber is incidental to the management activity; or

(3) for de minimus personal or administrative use within the Mount Hood National Recreation Area, where such use will not impair the purposes established by this subtitle.

(f) ROAD CONSTRUCTION.—No new or temporary roads shall be constructed or reconstructed within the Mount Hood National Recreation Area except as necessary—

(1) to protect the health and safety of individuals in cases of an imminent threat of flood, fire, or any other catastrophic event that, without intervention, would cause the loss of life or property;

(2) to conduct environmental cleanup required by the United States;

(3) to allow for the exercise of reserved or outstanding rights provided for by a statute or treaty;

(4) to prevent irreparable resource damage by an existing road; or

(5) to rectify a hazardous road condition.

(g) WITHDRAWAL.—Subject to valid existing rights, all Federal land within the Mount Hood National Recreation Area is withdrawn from—

(1) all forms of entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

- (3) disposition under all laws relating to mineral and geothermal leasing.
- (h) **TRANSFER OF ADMINISTRATIVE JURISDICTION.**—
  - (1) **IN GENERAL.**—Administrative jurisdiction over the Federal land described in paragraph (2) is transferred from the Bureau of Land Management to the Forest Service.
  - (2) **DESCRIPTION OF LAND.**—The land referred to in paragraph (1) is the approximately 130 acres of land administered by the Bureau of Land Management within or adjacent to the Mount Hood National Recreation Area that is identified as “BLM Lands” on the map entitled “National Recreation Areas-Shellrock Mountain”, dated February 2007.

## **Subtitle D—Protections for Crystal Springs, Upper Big Bottom, and Cultus Creek**

### **SEC. 131. CRYSTAL SPRINGS WATERSHED SPECIAL RESOURCES MANAGEMENT UNIT.**

- (a) **ESTABLISHMENT.**—
  - (1) **IN GENERAL.**—On completion of the land exchange under section 202, there shall be established a special resources management unit in the State consisting of certain Federal land managed by the Forest Service, as generally depicted on the map entitled “Crystal Springs Watershed Special Resources Management Unit”, dated June 2006 (referred to in this section as the “map”), to be known as the “Crystal Springs Watershed Special Resources Management Unit” (referred to in this section as the “Management Unit”).
  - (2) **EXCLUSION OF CERTAIN LAND.**—The Management Unit does not include any National Forest System land otherwise covered by paragraph (1) that is designated as wilderness by subtitle A.
  - (3) **WITHDRAWAL.**—
    - (A) **IN GENERAL.**—Subject to valid rights in existence on the date of enactment of this Act, the Federal land designated as the Management Unit is withdrawn from all forms of—
      - (i) entry, appropriation, or disposal under the public land laws;
      - (ii) location, entry, and patent under the mining laws; and
      - (iii) disposition under all laws pertaining to mineral and geothermal leasing or mineral materials.
    - (B) **EXCEPTION.**—Subparagraph (A)(i) does not apply to the parcel of land generally depicted as “HES 151” on the map.
- (b) **PURPOSES.**—The purposes of the Management Unit are—
  - (1) to ensure the protection of the quality and quantity of the Crystal Springs watershed as a clean drinking water source for the residents of Hood River County, Oregon; and
  - (2) to allow visitors to enjoy the special scenic, natural, cultural, and wildlife values of the Crystal Springs watershed.
- (c) **MAP AND LEGAL DESCRIPTION.**—
  - (1) **SUBMISSION OF LEGAL DESCRIPTION.**—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and a legal description of the Management Unit with—
    - (A) the Committee on Energy and Natural Resources of the Senate; and
    - (B) the Committee on Natural Resources of the House of Representatives.
  - (2) **FORCE OF LAW.**—The map and legal description filed under paragraph (1) shall have the same force and effect as if included in this Act, except that the Secretary may correct typographical errors in the map and legal description.
  - (3) **PUBLIC AVAILABILITY.**—The map and legal description filed under paragraph (1) shall be on file and available for public inspection in the appropriate offices of the Forest Service.
- (d) **ADMINISTRATION.**—
  - (1) **IN GENERAL.**—The Secretary shall—
    - (A) administer the Management Unit—
      - (i) in accordance with the laws (including regulations) and rules applicable to units of the National Forest System; and
      - (ii) consistent with the purposes described in subsection (b); and
    - (B) only allow uses of the Management Unit that are consistent with the purposes described in subsection (b).
  - (2) **FUEL REDUCTION IN PROXIMITY TO IMPROVEMENTS AND PRIMARY PUBLIC ROADS.**—To protect the water quality, water quantity, and scenic, cultural, natural, and wildlife values of the Management Unit, the Secretary may conduct fuel reduction and forest health management treatments to maintain and restore fire-resilient forest structures containing late successional forest structure

characterized by large trees and multistoried canopies, as ecologically appropriate, on National Forest System land in the Management Unit—

(A) in any area located not more than 400 feet from structures located on—

(i) National Forest System land; or

(ii) private land adjacent to National Forest System land;

(B) in any area located not more than 400 feet from the Cooper Spur Road, the Cloud Cap Road, or the Cooper Spur Ski Area Loop Road; and

(C) on any other National Forest System land in the Management Unit, with priority given to activities that restore previously harvested stands, including the removal of logging slash, smaller diameter material, and ladder fuels.

(3) PROHIBITED ACTIVITIES.—Subject to valid existing rights, the following activities shall be prohibited on National Forest System land in the Management Unit:

(A) New road construction or renovation of existing non-System roads, except as necessary to protect public health and safety.

(B) Projects undertaken for the purpose of harvesting commercial timber (other than activities relating to the harvest of merchantable products that are byproducts of activities conducted to further the purposes described in subsection (b)).

(C) Commercial livestock grazing.

(D) The placement of new fuel storage tanks.

(E) Except to the extent necessary to further the purposes described in subsection (b), the application of any toxic chemicals (other than fire retardants), including pesticides, rodenticides, or herbicides.

(e) FOREST ROAD CLOSURES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may provide for the closure or gating to the general public of any Forest Service road within the Management Unit.

(2) EXCEPTION.—Nothing in this section requires the Secretary to close the road commonly known as “Cloud Cap Road”, which shall be administered in accordance with otherwise applicable law.

(f) PRIVATE LAND.—

(1) EFFECT.—Nothing in this section affects the use of, or access to, any private property within the area identified on the map as the “Crystal Springs Zone of Contribution” by—

(A) the owners of the private property; and

(B) guests to the private property.

(2) COOPERATION.—The Secretary is encouraged to work with private landowners who have agreed to cooperate with the Secretary to further the purposes of this section.

(g) ACQUISITION OF LAND.—

(1) IN GENERAL.—The Secretary may acquire from willing landowners any land located within the area identified on the map as the “Crystal Springs Zone of Contribution”.

(2) INCLUSION IN MANAGEMENT UNIT.—On the date of acquisition, any land acquired under paragraph (1) shall be incorporated in, and be managed as part of, the Management Unit.

#### SEC. 132. PROTECTIONS FOR UPPER BIG BOTTOM AND CULTUS CREEK.

(a) IN GENERAL.—The Secretary shall manage the Federal land administered by the Forest Service described in subsection (b) in a manner that preserves the natural and primitive character of the land for recreational, scenic, and scientific use.

(b) DESCRIPTION OF LAND.—The Federal land referred to in subsection (a) is—

(1) the approximately 1,580 acres, as generally depicted on the map entitled “Upper Big Bottom”, dated July 16, 2007; and

(2) the approximately 280 acres identified as “Cultus Creek” on the map entitled “Clackamas Wilderness-South Fork Clackamas”, dated July 16, 2007.

(c) MAPS AND LEGAL DESCRIPTIONS.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file maps and legal descriptions of the Federal land described in subsection (b) with—

(A) the Committee on Energy and Natural Resources of the Senate; and

(B) the Committee on Natural Resources of the House of Representatives.

(2) FORCE OF LAW.—The maps and legal descriptions filed under paragraph (1) shall have the same force and effect as if included in this Act, except that the Secretary may correct typographical errors in the maps and legal descriptions.



- (3) PUBLIC AVAILABILITY.—Each map and legal description filed under paragraph (1) shall be on file and available for public inspection in the appropriate offices of the Forest Service.
- (d) USE OF LAND.—
  - (1) IN GENERAL.—Subject to valid existing rights, with respect to the Federal land described in subsection (b), the Secretary shall only allow uses that are consistent with the purposes identified in subsection (a).
  - (2) PROHIBITED USES.—The following shall be prohibited on the Federal land described in subsection (b):
    - (A) Permanent roads.
    - (B) Commercial enterprises.
    - (C) Except as necessary to meet the minimum requirements for the administration of the Federal land and to protect public health and safety—
      - (i) the use of motor vehicles; or
      - (ii) the establishment of temporary roads.
  - (e) WITHDRAWAL.—Subject to valid existing rights, the Federal land described in subsection (b) is withdrawn from—
    - (1) all forms of entry, appropriation, or disposal under the public land laws;
    - (2) location, entry, and patent under the mining laws; and
    - (3) disposition under all laws relating to mineral and geothermal leasing.

## **TITLE II—LAND EXCHANGES**

### **Subtitle A—Cooper Spur-Government Camp Land Exchange**

#### **SEC. 201. DEFINITIONS.**

In this subtitle:

- (1) COUNTY.—The term “County” means Hood River County, Oregon.
- (2) EXCHANGE MAP.—The term “exchange map” means the map entitled “Cooper Spur/Government Camp Land Exchange”, dated June 2006.
- (3) FEDERAL LAND.—The term “Federal land” means the approximately 120 acres of National Forest System land in the Mount Hood National Forest in Government Camp, Clackamas County, Oregon, identified as “USFS Land to be Conveyed” on the exchange map.
- (4) MT. HOOD MEADOWS.—The term “Mt. Hood Meadows” means the Mt. Hood Meadows Oregon, Limited Partnership.
- (5) NON-FEDERAL LAND.—The term “non-Federal land” means—
  - (A) the parcel of approximately 770 acres of private land at Cooper Spur identified as “Land to be acquired by USFS” on the exchange map; and
  - (B) any buildings, furniture, fixtures, and equipment at the Inn at Cooper Spur and the Cooper Spur Ski Area covered by an appraisal described in section 202(d).

#### **SEC. 202. COOPER SPUR-GOVERNMENT CAMP LAND EXCHANGE.**

- (a) CONVEYANCE OF LAND.—Subject to the provisions of this section, if Mt. Hood Meadows offers to convey to the United States all right, title, and interest of Mt. Hood Meadows in and to the non-Federal land, the Secretary shall convey to Mt. Hood Meadows all right, title, and interest of the United States in and to the Federal land (other than any easements reserved under subsection (g)), subject to valid existing rights.
- (b) COMPLIANCE WITH EXISTING LAW.—Except as otherwise provided in this section, the Secretary shall carry out the land exchange under this section in accordance with section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).
- (c) CONDITIONS ON ACCEPTANCE.—
  - (1) TITLE.—As a condition of the land exchange under this section, title to the non-Federal land to be acquired by the Secretary under this section shall be acceptable to the Secretary.
  - (2) TERMS AND CONDITIONS.—The conveyance of the Federal land and non-Federal land shall be subject to such terms and conditions as the Secretary may require.
- (d) APPRAISALS.—
  - (1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary and Mt. Hood Meadows shall select an appraiser to conduct an appraisal of the Federal land and non-Federal land.

- (2) REQUIREMENTS.—An appraisal under paragraph (1) shall be conducted in accordance with nationally recognized appraisal standards, including—
  - (A) the Uniform Appraisal Standards for Federal Land Acquisitions; and
  - (B) the Uniform Standards of Professional Appraisal Practice.
- (e) SURVEYS.—
  - (1) IN GENERAL.—The exact acreage and legal description of the Federal land and non-Federal land shall be determined by surveys approved by the Secretary.
  - (2) COSTS.—The responsibility for the costs of any surveys conducted under paragraph (1), and any other administrative costs of carrying out the land exchange, shall be determined by the Secretary and Mt. Hood Meadows.
- (f) DEADLINE FOR COMPLETION OF LAND EXCHANGE.—It is the intent of Congress that the land exchange under this section shall be completed not later than 16 months after the date of enactment of this Act.
- (g) RESERVATION OF EASEMENTS.—As a condition of the conveyance of the Federal land, the Secretary shall reserve—
  - (1) a conservation easement to the Federal land to protect existing wetland, as identified by the Oregon Department of State Lands, that allows equivalent wetland mitigation measures to compensate for minor wetland encroachments necessary for the orderly development of the Federal land; and
  - (2) a trail easement to the Federal land that allows—
    - (A) nonmotorized use by the public of existing trails;
    - (B) roads, utilities, and infrastructure facilities to cross the trails; and
    - (C) improvement or relocation of the trails to accommodate development of the Federal land.

## Subtitle B—Port of Cascade Locks Land Exchange

### SEC. 211. DEFINITIONS.

In this subtitle:

- (1) EXCHANGE MAP.—The term “exchange map” means the map entitled “Port of Cascade Locks/Pacific Crest National Scenic Trail Land Exchange”, dated June 2006.
- (2) FEDERAL LAND.—The term “Federal land” means the parcel of land consisting of approximately 10 acres of National Forest System land in the Columbia River Gorge National Scenic Area identified as “USFS Land to be conveyed” on the exchange map.
- (3) NON-FEDERAL LAND.—The term “non-Federal land” means the parcels of land consisting of approximately 40 acres identified as “Land to be acquired by USFS” on the exchange map.
- (4) PORT.—The term “Port” means the Port of Cascade Locks, Cascade Locks, Oregon.

### SEC. 212. LAND EXCHANGE, PORT OF CASCADE LOCKS-PACIFIC CREST NATIONAL SCENIC TRAIL.

- (a) CONVEYANCE OF LAND.—Subject to the provisions of this section, if the Port offers to convey to the United States all right, title, and interest of the Port in and to the non-Federal land, the Secretary shall, subject to valid existing rights, convey to the Port all right, title, and interest of the United States in and to the Federal land.
- (b) COMPLIANCE WITH EXISTING LAW.—Except as otherwise provided in this section, the Secretary shall carry out the land exchange under this section in accordance with section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).
- (c) CONDITIONS ON ACCEPTANCE.—
  - (1) TITLE.—As a condition of the land exchange under this section, title to the non-Federal land to be acquired by the Secretary under this section shall be acceptable to the Secretary.
  - (2) TERMS AND CONDITIONS.—The conveyance of the Federal land and non-Federal land shall be subject to such terms and conditions as the Secretary may require.
- (d) APPRAISALS.—
  - (1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall select an appraiser to conduct an appraisal of the Federal land and non-Federal land.
  - (2) REQUIREMENTS.—An appraisal under paragraph (1) shall be conducted in accordance with nationally recognized appraisal standards, including—
    - (A) the Uniform Appraisal Standards for Federal Land Acquisitions; and

- (B) the Uniform Standards of Professional Appraisal Practice.
- (e) SURVEYS.—
  - (1) IN GENERAL.—The exact acreage and legal description of the Federal land and non-Federal land shall be determined by surveys approved by the Secretary.
  - (2) COSTS.—The responsibility for the costs of any surveys conducted under paragraph (1), and any other administrative costs of carrying out the land exchange, shall be determined by the Secretary and the Port.
- (f) DEADLINE FOR COMPLETION OF LAND EXCHANGE.—It is the intent of Congress that the land exchange under this section shall be completed not later than 16 months after the date of enactment of this Act.

## **Subtitle C—Hunchback Mountain Land Exchange and Boundary Adjustment**

### **SEC. 221. DEFINITIONS.**

In this subtitle:

- (1) COUNTY.—The term “County” means Clackamas County, Oregon.
- (2) EXCHANGE MAP.—The term “exchange map” means the map entitled “Hunchback Mountain Land Exchange, Clackamas County”, dated June 2006.
- (3) FEDERAL LAND.—The term “Federal land” means the parcel of land consisting of approximately 160 acres of National Forest System land in the Mount Hood National Forest identified as “USFS Land to be Conveyed” on the exchange map.
- (4) NON-FEDERAL LAND.—The term “non-Federal land” means the parcel of land consisting of approximately 160 acres identified as “Land to be acquired by USFS” on the exchange map.

### **SEC. 222. HUNCHBACK MOUNTAIN LAND EXCHANGE.**

- (a) CONVEYANCE OF LAND.—Subject to the provisions of this section, if the County offers to convey to the United States all right, title, and interest of the County in and to the non-Federal land, the Secretary shall, subject to valid existing rights, convey to the County all right, title, and interest of the United States in and to the Federal land.
- (b) COMPLIANCE WITH EXISTING LAW.—Except as otherwise provided in this section, the Secretary shall carry out the land exchange under this section in accordance with section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).
- (c) CONDITIONS ON ACCEPTANCE.—
  - (1) TITLE.—As a condition of the land exchange under this section, title to the non-Federal land to be acquired by the Secretary under this section shall be acceptable to the Secretary.
  - (2) TERMS AND CONDITIONS.—The conveyance of the Federal land and non-Federal land shall be subject to such terms and conditions as the Secretary may require.
- (d) APPRAISALS.—
  - (1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall select an appraiser to conduct an appraisal of the Federal land and non-Federal land.
  - (2) REQUIREMENTS.—An appraisal under paragraph (1) shall be conducted in accordance with nationally recognized appraisal standards, including—
    - (A) the Uniform Appraisal Standards for Federal Land Acquisitions; and
    - (B) the Uniform Standards of Professional Appraisal Practice.
- (e) SURVEYS.—
  - (1) IN GENERAL.—The exact acreage and legal description of the Federal land and non-Federal land shall be determined by surveys approved by the Secretary.
  - (2) COSTS.—The responsibility for the costs of any surveys conducted under paragraph (1), and any other administrative costs of carrying out the land exchange, shall be determined by the Secretary and the County.
- (f) DEADLINE FOR COMPLETION OF LAND EXCHANGE.—It is the intent of Congress that the land exchange under this section shall be completed not later than 16 months after the date of enactment of this Act.

### **SEC. 223. BOUNDARY ADJUSTMENT.**

- (a) IN GENERAL.—The boundary of the Mount Hood National Forest shall be adjusted to incorporate—
  - (1) any land conveyed to the United States under section 222; and

- (2) the land transferred to the Forest Service by section 121(h)(1).
- (b) ADDITIONS TO THE NATIONAL FOREST SYSTEM.—The Secretary shall administer the land described in subsection (a)—
  - (1) in accordance with—
    - (A) the Act of March 1, 1911 (commonly known as the “Weeks Law”) (16 U.S.C. 480 et seq.); and
    - (B) any laws (including regulations) applicable to the National Forest System; and
  - (2) subject to sections 103(c) and 121(d), as applicable.
- (c) LAND AND WATER CONSERVATION FUND.—For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–9), the boundaries of the Mount Hood National Forest modified by this Act shall be considered to be the boundaries of the Mount Hood National Forest in existence as of January 1, 1965.

## **Subtitle D—Conditions on Development of Federal Land**

### **SEC. 231. IMPROVED NATURAL DISASTER PREPAREDNESS.**

- (a) REQUIREMENTS APPLICABLE TO THE CONVEYANCE OF FEDERAL LAND.—
  - (1) IN GENERAL.—As a condition of each of the conveyances of Federal land under this title, the Secretary shall include in the deed of conveyance a requirement that applicable construction activities and alterations shall be conducted in accordance with—
    - (A) nationally recognized building and property maintenance codes; and
    - (B) nationally recognized codes for development in the wildland-urban interface and wildfire hazard mitigation.
  - (2) APPLICABLE LAW.—To the maximum extent practicable, the codes required under paragraph (1) shall be consistent with the nationally recognized codes adopted or referenced by the State or political subdivisions of the State.
  - (3) ENFORCEMENT.—The requirements under paragraph (1) may be enforced by the same entities otherwise enforcing codes, ordinances, and standards.
- (b) COMPLIANCE WITH CODES ON FEDERAL LAND.—The Secretary shall ensure that applicable construction activities and alterations undertaken or permitted by the Secretary on National Forest System land in the Mount Hood National Forest are conducted in accordance with—
  - (1) nationally recognized building and property maintenance codes; and
  - (2) nationally recognized codes for development in the wildland-urban interface development and wildfire hazard mitigation.
- (c) EFFECT ON ENFORCEMENT BY STATES AND POLITICAL SUBDIVISIONS.—Nothing in this section alters or limits the power of the State or a political subdivision of the State to implement or enforce any law (including regulations), rule, or standard relating to development or fire prevention and control.

## **TITLE III—TRIBAL PROVISIONS; PLANNING AND STUDIES**

### **SEC. 301. TRANSPORTATION PLAN.**

- (a) IN GENERAL.—The Secretary shall seek to participate in the development of an integrated, multimodal transportation plan developed by the Oregon Department of Transportation for the Mount Hood region to achieve comprehensive solutions to transportation challenges in the Mount Hood region—
  - (1) to promote appropriate economic development;
  - (2) to preserve the landscape of the Mount Hood region; and
  - (3) to enhance public safety.
- (b) ISSUES TO BE ADDRESSED.—In participating in the development of the transportation plan under subsection (a), the Secretary shall seek to address—
  - (1) transportation alternatives between and among recreation areas and gateway communities that are located within the Mount Hood region;
  - (2) establishing park-and-ride facilities that shall be located at gateway communities;
  - (3) establishing intermodal transportation centers to link public transportation, parking, and recreation destinations;
  - (4) creating a new interchange on Oregon State Highway 26 located adjacent to or within Government Camp;

- (5) designating, maintaining, and improving alternative routes using Forest Service or State roads for—
  - (A) providing emergency routes; or
  - (B) improving access to, and travel within, the Mount Hood region;
- (6) the feasibility of establishing—
  - (A) a gondola connection that—
    - (i) connects Timberline Lodge to Government Camp; and
    - (ii) is located in close proximity to the site of the historic gondola corridor; and
  - (B) an intermodal transportation center to be located in close proximity to Government Camp;
- (7) burying power lines located in, or adjacent to, the Mount Hood National Forest along Interstate 84 near the City of Cascade Locks, Oregon; and
- (8) creating mechanisms for funding the implementation of the transportation plan under subsection (a), including—
  - (A) funds provided by the Federal Government;
  - (B) public-private partnerships;
  - (C) incremental tax financing; and
  - (D) other financing tools that link transportation infrastructure improvements with development.

**SEC. 302. MOUNT HOOD NATIONAL FOREST STEWARDSHIP STRATEGY.**

- (a) **IN GENERAL.**—The Secretary shall prepare a report on, and implementation schedule for, the vegetation management strategy (including recommendations for biomass utilization) for the Mount Hood National Forest being developed by the Forest Service.
- (b) **SUBMISSION TO CONGRESS.**—
  - (1) **REPORT.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit the report to—
    - (A) the Committee on Energy and Natural Resources of the Senate; and
    - (B) the Committee on Natural Resources of the House of Representatives.
  - (2) **IMPLEMENTATION SCHEDULE.**—Not later than 1 year after the date on which the vegetation management strategy referred to in subsection (a) is completed, the Secretary shall submit the implementation schedule to—
    - (A) the Committee on Energy and Natural Resources of the Senate; and
    - (B) the Committee on Natural Resources of the House of Representatives.

**SEC. 303. LOCAL AND TRIBAL RELATIONSHIPS.**

- (a) **MANAGEMENT PLAN.**—
  - (1) **IN GENERAL.**—The Secretary, in consultation with Indian tribes with treaty-reserved gathering rights on land encompassed by the Mount Hood National Forest and in a manner consistent with the memorandum of understanding entered into between the Department of Agriculture, the Bureau of Land Management, the Bureau of Indian Affairs, and the Confederated Tribes of the Warm Springs Reservation of Oregon, dated April 25, 2003, as modified, shall develop and implement a management plan that meets the cultural foods obligations of the United States under applicable treaties, including the Treaty with the Tribes of Middle Oregon of June 25, 1855 (12 Stat. 963).
  - (2) **EFFECT.**—This subsection shall be considered to be consistent with, and is intended to implement, the gathering rights reserved by the treaty described in paragraph (1).
- (b) **SAVINGS PROVISIONS REGARDING RELATIONS WITH INDIAN TRIBES.**—
  - (1) **TREATY RIGHTS.**—Nothing in this Act alters, modifies, enlarges, diminishes, or extinguishes the treaty rights of any Indian tribe, including the off-reservation reserved rights established by the Treaty with the Tribes of Middle Oregon of June 25, 1855 (12 Stat. 963).
  - (2) **TRIBAL LAND.**—Nothing in this Act affects land held in trust by the Secretary of the Interior for Indian tribes or individual members of Indian tribes or other land acquired by the Army Corps of Engineers and administered by the Secretary of the Interior for the benefit of Indian tribes and individual members of Indian tribes.

**SEC. 304. RECREATIONAL USES.**

- (a) **MOUNT HOOD NATIONAL FOREST RECREATIONAL WORKING GROUP.**—The Secretary may establish a working group for the purpose of providing advice and recommendations to the Forest Service on planning and implementing recreation enhancements in the Mount Hood National Forest.
- (b) **CONSIDERATION OF CONVERSION OF FOREST ROADS TO RECREATIONAL USES.**—In considering a Forest Service road in the Mount Hood National Forest for possible closure and decommissioning after the date of enactment of this Act, the Secretary,

in accordance with applicable law, shall consider, as an alternative to decommissioning the road, converting the road to recreational uses to enhance recreational opportunities in the Mount Hood National Forest.

(c) IMPROVED TRAIL ACCESS FOR PERSONS WITH DISABILITIES.—The Secretary, in consultation with the public, may design and construct a trail at a location selected by the Secretary in Mount Hood National Forest suitable for use by persons with disabilities.

#### PURPOSE OF THE MEASURE

The purpose of S. 647, as ordered reported, is to designate certain land on Mount Hood, Oregon, as wilderness, to designate certain rivers as components of the National Wild and Scenic Rivers System, to designate the Mount Hood National Recreation Area, and to otherwise improve Federal land management in and around the Mount Hood National Forest.

#### BACKGROUND AND NEED

Mount Hood is the tallest mountain in the State of Oregon, rising 11,239 feet above sea level. The Mount Hood National Forest encompasses more than one million acres of Mount Hood. The Mount Hood National Forest hosts more than four million visitors annually, with well-over 100,000 visitors to the approximately 130,000 acres of existing wilderness on Mount Hood each year.

The heavy visitation to Mount Hood's wilderness areas led to proposed restrictions by the Forest Service in the late 1990s, but that proposal was met with major public concerns. Visitation and the pressures of local growth have only increased since then, leading to efforts to protect more land on Mount Hood for wilderness recreation and to otherwise address recreation issues in the Mount Hood region. S. 647 would designate approximately 124,240 acres of wilderness, a National Recreation Area composed of approximately 34,550 acres, and approximately 81 miles of rivers as wild, scenic and recreational components of the National Wild and Scenic Rivers System. The bill also authorizes three land exchanges and includes other provisions.

#### LEGISLATIVE HISTORY

Senators Wyden and Smith introduced S. 647 on February 15, 2007, and a hearing was held on the measure in the Public Lands and Forests Subcommittee on May 3, 2007 (S. Hrg. 110–91). The Senators introduced a similar bill (S. 3854) in the 109th Congress, and the subcommittee held a hearing on that bill on September 27, 2006 (S. Hrg. 109–778). A similar bill passed by the House of Representatives (H.R. 5025), introduced by Representatives Walden, Blumenauer, DeFazio, and Hooley, also was considered at that hearing.

At its business meeting on July 25, 2007, the Committee on Energy and Natural Resources ordered S. 647 favorably reported, with an amendment in the nature of a substitute.

#### COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in an open business session on July 25, 2007, by voice vote of a quorum present, recommends that the Senate pass S. 647, if amended as described herein.

## COMMITTEE AMENDMENT

During its consideration of S. 647, the Committee adopted an amendment in the nature of a substitute. The amendment reorganizes S. 647 into three titles: "Protected Areas" (title I), "Land Exchanges" (title II), and "Tribal Provisions; Planning and Studies" (title III). The Committee made a number of technical, conforming, and other changes, including numerous adjustments to the boundaries of the wilderness areas to provide more manageable boundaries and to enhance the overall wilderness character of the proposed wildernesses. The Committee also revised the provisions of the proposed land exchanges to address a number of concerns raised by the Administration and to conform with standard processes, including provisions requiring appraisals to be conducted in accordance with uniform standards. The provisions of the substitute are described in more detail in the section-by-section analysis.

## SECTION-BY-SECTION ANALYSIS

Section 1 contains the short title and the table of contents.

## Title I—Protected Areas

Section 101 designates approximately 124,240 acres of land managed by the Forest Service within the Mount Hood National Forest as components of the National Wilderness Preservation System. The sponsors and the Committee have worked closely with the Forest Service to develop wilderness boundaries that, in most cases, coincide with jurisdictional or land-management boundaries or geographic features and to create maps that generally depict those boundaries. Section 104 of the legislation directs the Secretary to develop maps and legal descriptions that more precisely describe each area, consistent with the understanding reflected in the maps referred to in section 101.

The areas to be designated include:

- (1) approximately 4,140 acres to be added to the Badger Creek Wilderness;
- (2) approximately 10,180 acres to be added to the Bull of the Woods Wilderness;
- (3) approximately 9,470 acres to be known as the Clackamas Wilderness;
- (4) approximately 25,960 acres to be added to the Mark O. Hatfield Wilderness;
- (5) approximately 18,450 acres to be added to the Mount Hood Wilderness;
- (6) approximately 36,550 acres to be known as the Roaring River Wilderness;
- (7) approximately 16,620 acres to be added to the Salmon-Huckleberry Wilderness; and
- (8) approximately 2,870 acres to be known as the Lower White River Wilderness.

Section 102 establishes an area composed of approximately 1,886 acres within the Mount Hood Wilderness to be known as the "Richard L. Kohnstamm Memorial Area." The designation recognizes Mr. Kohnstamm's historic contributions to the area, including pre-

serving and restoring the adjacent Timberline Lodge and promoting alpine recreation.

Section 103(a) designates as a potential wilderness area approximately 900 acres of Forest Service land that has been altered by human influences relating to timber harvests. The potential wilderness area shall be managed in accordance with section 4 of the Wilderness Act until such time as the Secretary publishes a notice that the conditions in the potential wilderness area are compatible with designation as a component of the National Wilderness Preservation System. At that time, the area will be incorporated into the Roaring River Wilderness designated by section 101(6).

Subsection (b) provides for the designation as wilderness of approximately 1,710 acres that are interrelated with the land exchange under section 202. The designation shall occur upon the completion of the land exchange.

Subsection (c) provides for approximately 160 acres that are interrelated with the land exchange under section 222 to be designated as wilderness upon acquisition by the United States.

Section 104 directs the Secretary to file an official map and legal description of each wilderness and potential wilderness area designated by title I with the appropriate congressional committees and agency offices. Subsection (d) provides that the boundary of any wilderness area designated by section 101 shall be 100 feet from the boundary of any utility right-of-way or Federal Energy Regulatory Commission project.

Section 105(a) directs the Secretary of Agriculture (for National Forest System lands) and the Secretary of the Interior (for BLM-administered lands) to administer the wilderness areas designated pursuant to title I in accordance with the Wilderness Act, subject to valid existing rights.

Subsection (b) provides that any land within the boundary of a wilderness area designated by this Act that is acquired by the Federal Government shall become part of that wilderness area and be administered in accordance with the Wilderness Act.

Section 106 incorporates language from the Oregon Wilderness Act of 1984 (Public Law 98-328) regarding activities and uses outside of the boundaries of the wilderness areas designated by title I.

Section 107 states that nothing in this Act affects the jurisdiction or responsibilities of the State of Oregon with respect to fish and wildlife.

Section 108 states that the Secretary of Agriculture (for National Forest System lands) and the Secretary of the Interior (for BLM-administered lands) may, in accordance with the Wilderness Act, take such measures in the wilderness areas designated by this Act as are necessary to control fire, insects, and diseases.

Section 109 withdraws, subject to valid existing rights, the Federal land designated as wilderness from entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing or mineral materials.

Section 111 designates approximately 81 miles of rivers as wild, scenic, or recreational river components of the Wild and Scenic Rivers System. The designations include portions of the South Fork Clackamas River (approximately 4.2 miles as a wild river), Eagle



Creek (approximately 8.3 miles as a wild river), the Middle Fork Hood River (approximately 3.7 miles as a scenic river), the South Fork Roaring River (approximately 4.6 miles as a wild river), the Zig Zag River (approximately 4.3 miles as a wild river), Fifteenmile Creek (approximately 11.1 miles in wild and scenic river segments), the East Fork Hood River (approximately 13.5 miles as a recreational river), the Collawash River (approximately 17.8 miles in scenic and recreational river segments), and Fish Creek (approximately 13.5 miles as a recreational river). Subsection (b) states that the designation of the rivers does not affect valid existing water rights.

Section 112 amends the Columbia River Gorge National Scenic Area Act (Public Law 99-663) to make the protections of that Act for the Hood River, Oregon, permanent.

Section 121 designates approximately 34,550 acres of the Mount Hood National Forest as the Mount Hood National Recreation Area (hereinafter "NRA").

Subsection (a) states the purposes of the NRA.

Subsection (b) describes the NRA as the three parcels that are generally depicted on the referenced maps.

Subsection (c) directs the Secretary to file an official map and legal description of the NRA with the appropriate congressional committees and offices of the Forest Service.

Subsection (d) directs the Secretary to administer the NRA consistent with the purposes established by subsection (a) and in accordance with applicable law, and prohibits the Secretary from allowing uses that are not consistent with those purposes. Paragraph (2) provides that land designated as wilderness that is within the NRA shall be administered in accordance with the Wilderness Act, clarifying that any activities prohibited by the Wilderness Act are prohibited in such areas even if they otherwise could be authorized within the NRA.

Subsection (e) limits the cutting, sale, and removal of timber within the NRA. Timber may be cut, sold, and removed to the extent doing so is necessary to improve the health of the forest, if incidental to management activities designed to further the purposes of the NRA, or for de minimus personal use within the NRA that does not impair the purposes of the NRA.

Subsection (f) prohibits the construction or reconstruction of new or temporary roads within the NRA, except as necessary to protect against imminent threats to public health and safety, to conduct environmental cleanup of hazardous and other wastes (as required by the United States), to allow for the exercise of statutory or treaty rights, to prevent irreparable resource damage by an existing road, or to rectify a hazardous road condition.

Subsection (g) withdraws, subject to valid existing rights, all Federal land within the NRA from entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing or mineral materials.

Subsection (h) transfers administrative jurisdiction over two parcels of Federal land totaling approximately 130 acres from the Bureau of Land Management to the Forest Service.

Section 131 establishes, upon completion of the land exchange under section 202, the Crystal Springs Watershed Special Resources Management Unit (hereinafter "Management Unit").

Subsection (a) describes the Management Unit as the Forest Service land generally depicted on the referenced map, not including any land designated as wilderness. Paragraph (3) withdraws, subject to valid existing rights, the Federal land in the Management Unit (including land within the Management Unit that is acquired by the Forest Service pursuant to the land exchange under section 202) from entry, appropriation, or disposal under the public land laws (except for the parcel generally depicted on the map as HES 151); from location, entry, and patent under the mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing or mineral materials. In order retain flexibility in developing the terms and conditions of the land exchange with Mt. Hood Meadows, the provision does not prohibit the Forest Service from disposing of parcel HES 151, if done so in accordance with applicable law (including this section).

Subsection (b) establishes the purposes of the Management Unit, which are to protect water quality and quantity and to allow visitors to enjoy its scenic, natural, cultural, and wildlife values.

Subsection (c) directs the Secretary to file an official map and legal description of the NRA with the appropriate congressional committees and offices of the Forest Service.

Subsection (d)(1) directs the Secretary to administer the Management Unit consistent with the purposes established by subsection (b) and in accordance with applicable law, and prohibits the Secretary from allowing uses that are not consistent with those purposes. Paragraph (2) clarifies that the Secretary may conduct certain fuel reduction and forest health management treatments in furtherance of the purposes of the Management Unit. Paragraph (3) prohibits, subject to valid existing rights, certain activities, including commercial livestock grazing and the placement of new fuel storage tanks. In addition, new road construction, renovation of existing non-system roads, commercial timber harvest, and the application of toxic chemicals are generally prohibited, though in each case there are specific extraordinary circumstances under which such activities may be permitted.

Subsection (e) recognizes that it may be appropriate for the Secretary to close roads within the Management Unit to further the Management Unit's purposes. It also provides an exception for any decision to close Cloud Cap Road, which must be based on otherwise applicable law.

Subsection (f) provides that nothing in this section affects the use of or access to any private property within the area identified on the map as the Crystal Springs Zone of Contribution by the properties' owners and guests. It also encourages the Secretary to work cooperatively with owners to further the purposes of the Management Unit.

Subsection (g) provides authority for the Secretary to acquire land within the Zone of Contribution depicted on the map and clarifies that any such land shall be incorporated in and administered as part of the Management Unit.

Section 132 establishes protections for two areas in the Mount Hood National Forest.

Subsection (a) directs the Secretary to manage the two areas to preserve the natural and primitive character of the land for recreational, scenic, and scientific use.

Subsection (b) describes the areas, one of which is approximately 1,580 acres and one of which is approximately 280 acres, as generally depicted on the referenced maps.

Subsection (c) directs the Secretary to file an official map and legal description for each area with the appropriate congressional committees and offices of the Forest Service.

Subsection (d) provides that the Secretary may only allow uses within the areas that are consistent with the purposes described in subsection (a). It also specifically prohibits permanent roads, commercial enterprises, and—except as necessary to meet the minimum requirements for the administration of the areas and to protect public health and safety—the use of motor vehicles and temporary roads.

Subsection (e) withdraws, subject to valid existing rights, the areas from entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing or mineral materials.

## Title II—Land Exchanges

Section 201 provides the definitions of terms used in section 202 regarding the Cooper Spur-Government Camp Land Exchange. The definitions establish that the private land identified for exchange includes approximately 770 acres at Cooper Spur (along with any buildings, furniture, fixtures, and equipment that are appraised) and that the Forest Service land identified for exchange includes approximately 120 acres in Government Camp. Both parcels are generally depicted on the map referred to in paragraph (2).

Section 202 provides basic direction for the exchange between the Forest Service and Mt. Hood Meadows. The Administration raised a number of concerns in its testimony regarding requirements for this exchange that were included in S. 647 as introduced. The amendment adopted by the Committee made a number of changes to the bill to address those concerns, including clarifying that the exchange be conducted in accordance with standard practices and deleting a number of objectionable requirements. The Committee understands that Mt. Hood Meadows and many others in the Mount Hood community have worked for many years on this land exchange and that they are anxious to realize the benefits it would provide. In recognition of the communities' interests in the exchange, the Committee urges the Forest Service not only to work closely with Mt. Hood Meadows in carrying out the exchange, but also with other interested stakeholders.

Subsection (a) states that, subject to the other provisions of this section, if Mt. Hood Meadows offers to convey all of its right, title, and interest to certain land it owns in the Cooper Spur Area, the Secretary shall convey certain Forest Service land in Government Camp. It also specifies that the conveyance of the Forest Service land shall be subject to any valid existing rights.

Subsection (b) states that the Secretary shall carry out the exchange in accordance with section 206 of the Federal Land Policy and Management Act (43 U.S.C. 1716), except as otherwise pro-

vided in this section. For example, section 206 of that Act includes provisions that govern equalization of values, determination of costs, and the status of acquired lands.

Subsection (c) provides that the title to the private land must be in a form acceptable to the Secretary and establishes that the exchange is subject to such terms and conditions as the Secretary may require.

Subsection (d) provides that an appraiser shall be selected by the Secretary and Mt. Hood Meadows as soon as practical after the date of enactment of this Act. It also requires the appraisals to be conducted in accordance with uniform standards and practices.

Subsection (e) provides that the exact acreage and legal descriptions of the lands to be exchanged shall be determined by surveys approved by the Secretary, and that the costs of carrying out the exchange shall be determined by the Secretary and Mt. Hood Meadows.

Subsection (f) states that it is the intent of Congress that the exchange be completed within 16 months of the date of enactment of this Act. The Committee considered the Administration's testimony that it views this timeframe as unachievable given procedural requirements and competing priorities. The Committee, however, believes the timeframe is reasonable and achievable, and accordingly has retained the statement of congressional intent. The Committee deleted an entire section regarding concessions to facilitate and simplify the process. The Committee also understands that Mt. Hood Meadows is willing to begin the land exchange process while S. 647 is pending in Congress, and the Committee encourages the Forest Service to do so in order to facilitate the timely completion of the land exchange.

Subsection (g) directs the Secretary to reserve a conservation easement to the Forest Service land to protect existing wetlands, as well as a trail easement.

Section 211 provides the definitions of terms used in section 212 regarding the Port of Cascade Locks land exchange. The definitions establish that the private land identified for exchange includes two parcels totaling approximately 40 acres of land near Cascade Locks and that the Forest Service land identified for exchange includes approximately 10 acres of land in Cascade Locks. Both parcels are generally depicted on the map referred to in paragraph (1).

Section 212 provides basic direction for the exchange of lands and interests in lands between the Forest Service and the Port of Cascade Locks.

Subsection (a) states that, subject to the other provisions of this section, if the Port of Cascade Locks offers to convey all of its right, title, and interest to certain land it owns, the Secretary shall convey certain Forest Service land in Cascade Locks. It also specifies that the conveyance of the Forest Service land shall be subject to any valid existing rights.

Subsection (b) states that the Secretary shall carry out the exchange in accordance with section 206 of the Federal Land Policy and Management Act (43 U.S.C. 1716), except as otherwise provided in this section.

Subsection (c) provides that the title to the private land must be in a form acceptable to the Secretary and establishes that the ex-

change is subject to such terms and conditions as the Secretary may require.

Subsection (d) provides that an appraiser shall be selected by the Secretary as soon as practical after the date of enactment of this Act. It also requires the appraisals to be conducted in accordance with uniform standards and practices.

Subsection (e) provides that the exact acreage and legal descriptions of the lands to be exchanged shall be determined by surveys approved by the Secretary, and that the costs of carrying out the exchange shall be determined by the Secretary and the Port of Cascade Locks.

Subsection (f) states that it is the intent of Congress that the exchange be completed within 16 months of the date of enactment of this Act.

Section 221 provides the definitions of terms used in section 222 regarding the Hunchback Mountain land exchange. The definitions establish that the private land identified for exchange includes approximately 160 acres of land and that the Forest Service land identified for exchange includes approximately 160 acres of land. Both parcels are generally depicted on the map referred to in paragraph (2).

Section 222 provides basic direction for the exchange of lands and interests in lands between the Forest Service and the Clackamas County.

Subsection (a) states that, subject to the other provisions of this section, if Clackamas County offers to convey all of its right, title, and interest to certain land it owns, the Secretary shall convey certain Forest Service land. It also specifies that the conveyance of the Forest Service land shall be subject to any valid existing rights.

Subsection (b) states that the Secretary shall carry out the exchange in accordance with section 206 of the Federal Land Policy and Management Act (43 U.S.C. 1716), except as otherwise provided in this section.

Subsection (c) provides that the title to the private land must be in a form acceptable to the Secretary and establishes that the exchange is subject to such terms and conditions as the Secretary may require.

Subsection (d) provides that an appraiser shall be selected by the Secretary as soon as practical after the date of enactment of this Act. It also requires the appraisals to be conducted in accordance with uniform standards and practices.

Subsection (e) provides that the exact acreage and legal descriptions of the lands to be exchanged shall be determined by surveys approved by the Secretary, and that the costs of carrying out the exchange shall be determined by the Secretary and Clackamas County.

Subsection (f) states that it is the intent of Congress that the exchange be completed within 16 months of the date of enactment of this Act.

Section 223 adjusts the boundaries of the Mount Hood National Forest to incorporate the land acquired pursuant to section 222 and the land transferred pursuant to section 121(h)(1). It also directs the Secretary to administer those lands in accordance with applicable law (which in the case of the land acquired pursuant to section 222 includes the Wilderness Act and in the case of most of the land

transferred pursuant to section 121 includes provisions governing the Mount Hood National Recreation Area). It also states that the modified boundaries of the Mount Hood National Forest shall be considered to be the boundaries in existence as of January 1, 1965, for purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-9).

Section 231 provides for the application of nationally recognized building, property maintenance, and wildfire codes to development and alterations on certain Federal land and land conveyed by the Forest Service.

Subsection (a) directs the Secretary to include in the deeds of conveyance for Federal land involved in the land exchanges under title II a requirement that applicable construction activities and alterations be conducted in accordance with such codes. It also states that, to the maximum extent practicable, the codes should be adapted to be consistent with any State or local adaptations of those codes. Adaptations that do not maintain the codes' integrity and general effectiveness would not be practicable. Paragraph (3) makes clear that the codes required under this subsection may be enforced by the appropriate State or local entities.

Subsection (b) requires the Secretary to ensure that future construction and alterations on National Forest System land in the Mount Hood National Forest comply with such codes.

Subsection (c) makes clear that nothing in this section alters the powers of State or local governments.

Section 301 states that, if the Oregon Department of Transportation undertakes to develop a multimodal transportation plan for the Mount Hood region, the Secretary shall seek to participate in its development, and lists a number of issues that the Secretary shall seek to address in the development of any such plan.

Section 302 requires the Secretary to submit to the appropriate congressional committees a report on and implementation schedule for the vegetation management strategy that the Forest Service currently is developing. The initial report is to be filed not later than 1 year after the date of enactment of this Act, and the implementation schedule is to be filed not later than 1 year after the strategy is complete.

Section 303(a) directs the Secretary to develop a plan, in consultation with Indian Tribes with treaty-reserved gathering rights on lands within the Mount Hood National Forest, to implement the cultural foods obligations of the United States under applicable treaties. Paragraph (2) is intended to ensure that the Secretary designs and carries out the cultural foods management plan in a manner that is consistent with, or conforms with, the gathering rights on the designated lands reserved by the Treaty with the Tribes of Middle Oregon of June 25, 1855, and that furthers the United States' on-going implementation of that Treaty.

Subsection (b) reinforces that nothing in this Act in any way alters the Tribes' treaty rights or affects land held in trust.

Section 304(a) recognizes the Secretary's authority to establish a working group to advise the Forest Service on planning and implementing recreation enhancements for the Mount Hood National Forest.

Subsection (b) emphasizes the Secretary's responsibility under applicable law to consider converting roads to recreational uses as an alternative to road decommissioning.

Subsection (c) emphasizes the Secretary's authority to design and construct a trail in the Mount Hood National Forest that is suitable for use by persons with disabilities.

#### COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

SEPTEMBER 4, 2007.

Hon. JEFF BINGAMAN,  
*Chairman, Committee on Energy and Natural Resources,*  
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 647, the Lewis and Clark Mount Hood Wilderness Act of 2007.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Tyler Kruzich.

Sincerely,

PETER R. ORSZAG.

#### *S. 647—Lewis and Clark Mount Hood Wilderness Act of 2007*

Summary: S. 647 would designate about 124,000 acres of federal land located in Oregon as wilderness and would add about 80 miles of waterways in the forest to the Wild and Scenic Rivers System. The bill also would designate about 34,550 acres within the national forest as the Mt. Hood National Recreation Area. Other lands would be protected by designating them as special resource areas or potential wilderness or by requiring them to be managed for limited uses. Finally, S. 647 would authorize the U.S. Forest Service to acquire private lands near Mt. Hood and would provide for several exchanges of land between the Forest Service and non-federal landowners.

CBO estimates that implementing S. 647 would cost \$3 million in 2008 and \$11 million over the 2008–2012 period, assuming appropriation of the necessary amounts. Enacting this legislation could affect offsetting receipts and direct spending, but we estimate that any such effects would be negligible. Enacting the bill would not affect revenues.

S. 647 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimated budgetary impact of S. 647 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—				
	2008	2009	2010	2011	2012
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Estimated Authorization Level .....	5	2	2	1	1
Estimated Outlays .....	3	3	2	2	1

Basis of estimate: CBO estimates that implementing S. 647 would cost \$11 million over the 2008–2012 period, assuming appropriation of the necessary amounts. We estimate that any forgone offsetting receipts (a credit against direct spending) from enacting this legislation would be negligible. For this estimate, CBO assumes that the bill will be enacted near the start of fiscal year 2008 and that the amounts estimated to be necessary will be appropriated each year.

#### *Protected areas*

Title I would designate 124,000 acres of Forest Service land as wilderness. It also would designate approximately 80 miles of rivers as wild and scenic. Subject to valid existing rights, each new area designated under the bill would be withdrawn from programs to develop mineral or geothermal resources. The Forest Service would need to describe, map, and survey the new land to properly protect it as wilderness. Based on information from the agency, CBO estimates that the Forest Service would spend about \$9 million over the 2008–2012 period to complete the necessary mapping and surveying.

Designating federal land as wilderness could result in forgone offsetting receipts if, under current law, that land would generate income from activities such as timber harvesting and mining. According to the Forest Service, that land currently generates no significant receipts but does contain about 5,000 acres of timber that could be harvested in the future. Such sales proceeds can be spent by the Forest Service without further appropriation. Thus, CBO estimates that any net budgetary impact from enacting this legislation would be negligible over the next 10 years.

#### *Land exchanges*

Title II of the legislation would authorize the Forest Service to exchange certain federal land for nonfederal land and to make or receive cash payments to account for any difference in the value of land exchanged. Based on information from the Forest Service, CBO estimates that the agency would need to pay \$1 million to private landholders to equalize the value of the properties that would be exchanged under the bill. In addition, CBO estimates that the agency would spend several hundred thousand dollars for administrative activities associated with the exchanges.

According to the agency, the land to be conveyed currently generates no significant receipts and is not expected to do so over the next 10 years; therefore, we estimate that conveying the land would not affect offsetting receipts.

Intergovernmental and private-sector impact: S. 647 contains no intergovernmental or private-sector mandates as defined in UMRA. The bill would authorize land exchanges between state and local governments and the federal government; any costs related to the conveyance of such lands would be incurred voluntarily.

Estimate prepared by: Federal Costs: Tyler Kruzich; Impact on State, Local, and Tribal Governments: Leo Lex; Impact on the Private-Sector: Amy Petz.

Estimate approved by: Theresa A. Gullo, Chief, State and Local Government Cost Estimates Unit, Budget Analysis Division.



## REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 647.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy. Little additional paperwork would result from the enactment of S. 647.

## EXECUTIVE COMMUNICATIONS

The views of the Administration were included in testimony received by the Committee at a hearing on S. 647 on May 3, 2007.

STATEMENT OF MARK REY, UNDER SECRETARY, NATURAL  
RESOURCES AND ENVIRONMENT, DEPARTMENT OF AGRICULTURE

\* \* \* \* \*

Mr. Chairman and members of the committee, I appreciate the opportunity to appear before you today to provide the Department's views on the bills which are on the agenda today.

S. 647: THE LEWIS AND CLARK MOUNT HOOD WILDERNESS ACT  
OF 2007

The Lewis and Clark Mount Hood Wilderness Act of 2007 provides management direction for Mount Hood and its surrounding landscapes that emphasizes the importance of wilderness, recreation, and forest health, as well as cultural, historical, environmental and scenic values.

The Administration recognizes that the bill's sponsors have conducted a considerable amount of outreach and worked with a number of communities of interest including local and state governmental entities, tribes, profit and non-profit organizations and individuals in the development of S. 647.

Last year, the Administration testified in hearings on two bills concerning the management of lands in and around Mount Hood: S. 3854 and H.R. 5025. We are gratified that several of the suggestions offered at that time have been considered in S. 647, and it is preferable to last year's Senate bill. However, we still have critical concerns regarding several provisions which precludes our support for the bill as written.

Several of the provisions continue to be highly prescriptive and limiting, and we believe, could benefit from additional collaboration among all stakeholders. While we strongly support public involvement and community collaboration, the concept of legislating management direction is problematic. We find the land exchange provisions and

several of the wilderness designations to be especially troubling. We would like to work with this committee and the sponsors to ensure that existing legal and cooperative frameworks for decision-making continue to be honored as we seek to meet the goals of the legislation.

#### *Overview*

S. 647 would expand the National Wilderness Preservation System and the National Wild and Scenic Rivers System, and designate national recreation areas, and a special resources management unit. It would provide for the retention of fees from recreation and other special uses and establish a recreational working group.

In addition, the bill would direct the Secretary to work with State, local, and other Federal governments to develop an integrated multi-modal transportation plan, and, with the State of Oregon, study the feasibility of establishing a gondola connection and a multi-modal transportation center located near Government Camp.

The bill would require the Secretary of Agriculture to conduct a Forest Stewardship Assessment to address forest health, to establish Memoranda of Understanding for watershed management between the Forest Service and irrigation districts or municipalities and to study long-term biomass available on the Mount Hood National Forest. The bill would direct the Secretary to establish priority-use areas and provide for the gathering of first foods by members of Indian tribes with treaty-reserved gathering rights.

The bill would require the Secretary to enter into specified land exchanges with private landowners and directs the Secretary to publish a prospectus to operate a ski area and inn that would be acquired in an exchange.

#### *Analysis*

The Administration supports many of the concepts and provisions of this bill, including some wilderness and wild and scenic river designations, and the attention focused on recreation, watershed and forest health and transportation issues on and around Mount Hood.

We would like to work with the committee and sponsors to correct technical items and resolve concerns regarding the legislation including: (1) Effects of some of the wilderness proposals; (2) special use fee retention; (3) restrictive management requirements of the Crystal Springs Watershed Management Unit; (4) the requirement to enter into a land exchange that, in our consideration, is not in the public interest; and (5) the requirement to undertake procedures required by the National Environmental Policy Act, the Endangered Species Act, and other laws for a legislated land exchange when the statute leaves no discretion to take into consideration the information obtained by these procedures.

The bill also authorizes approximately \$2 million in appropriations and many new management activities without identifying sources of funding or proposed offsets. It re-

quires some 20 different types of plans, studies, and management activities without consideration for ongoing forest or regional priorities. It sets multiple timelines that are unachievable given the volume of work, current staffing, and requirements for third party participation.

### *Wilderness*

S. 647 proposes to designate approximately 128,800 new acres of wilderness on the Mount Hood National Forest, and about 1,700 acres of wilderness on adjacent lands managed by the Bureau of Land Management. The Administration would support the designation of wilderness for areas that are consistent with the hallmarks of wilderness described in the Wilderness Act of 1964 areas dominated by the forces of nature, with primeval character and natural conditions that contrast with developed lands and offering outstanding opportunities for solitude or primitive and unconfined recreation.

The best opportunities for achieving these conditions are within those proposed areas that are contiguous to existing wilderness areas. The additions that, in our opinion, could enhance existing wilderness areas include approximately 59,000 acres consisting of the following: Bull of the Woods (5,400 acres), Mount Hood (2,000 acres), Salmon-Huckleberry (7,700 acres), Roaring River (31,000 acres), and Gorge Face (12,500 acres).

We would like to work with the committee to seek agreement on mapping changes that would provide more manageable boundary locations and enhance the overall wilderness character of the proposed wildernesses. We also seek the flexibility in legislative language to make minor boundary adjustments prior to survey to exclude non-conforming uses such as power lines, roads and existing permitted operations. In addition, we understand that some of the maps referenced in the legislation have been modified since the bill was first introduced, and bill language should be amended to reflect the changes.

We have specific concerns with other proposed wilderness designation including many of the smaller, isolated areas. These areas are currently managed for values and uses that are inconsistent with wilderness designation, including motorized access. Examples of proposed wilderness with limited or impaired wilderness character would include areas close to I-84 and Highways 35 and 26, and small extrusions and peninsulas extending from existing wilderness and from some of the proposed new wilderness. We believe these proposed areas would be adversely impacted from adjacent activities or from activities associated with the continuation of existing uses, such as mountain biking and motorized camping. We would like to work with the committee to explore alternatives that could meet the intent of protecting these areas for future generations short of wilderness designation.

S. 647 proposes new wilderness within the boundary of the Columbia River Gorge National Scenic Area

(CRGNSA) designated by Congress in 1986. Most of the area within the CRGNSA covered under the bill is adjacent to urbanized areas and significant infrastructure (such as the cities of Hood River, Bonneville, and Cascade Locks, the unincorporated communities of Dodson and Warrendale, Bonneville Power Administration's high voltage power lines that traverse and transect the Gorge, Interstate 84, and the Union Pacific Rail Line). We believe that adjacent land uses, in conjunction with special provisions for existing rights such as the Army Corps of Engineers permit related to Bonneville Dam, could potentially conflict with and compromise the wilderness character of the proposed Gorge Face Wilderness. The CRGNSA designation has been highly successful in protecting and enhancing the scenic, cultural, and natural and recreation resources of the area while accommodating economic development consistent with these purposes.

Section 106 would require the Secretary to construct a system of defensible fuel profile zones. Significant inter-governmental agency and community involvement has resulted in the development of the City of Cascade Locks Community and the Clackamas County Community Wild-fire Protection Plans, completed in 2005. Implementation is being planned by the Forest Service and these partners at this time. However, it would be difficult to implement the proposed zones in a manner consistent with the Mount Hood National Forest Management Plan. The area around Government Camp is spotted owl habitat. Previous fuel reduction projects in this vicinity have been limited because effective treatment would change the stand composition, conflicting with spotted owl habitat. More flexibility in bill language would address this concern.

#### *Wild and scenic river designations*

The Department supports the wild and scenic river designations proposed by S. 647, with the exception of the Fifteen Mile Creek and the East Fork Hood River. The former did not rise to a level of significance for a wild and scenic river eligibility study during the Land and Resource Management Planning process and we believe it still does not merit further consideration. The East Fork Hood River was determined not a suitable addition to the National Wild and Scenic Rivers System in the Mount Hood Land and Resource Management Plan. The paragraphs amending Section 3(a) of the Wild and Scenic Rivers Act should not be numbered, and several river-specific proposals require further clarification. We look forward to working with the committee to address these concerns.

The Forest Service is also concerned about its ability to protect wild and scenic river values with regard to particular wild and scenic river boundary locations; the language relative to water rights and flow requirements; culverts; and treatment of State highways. We prefer that the boundaries be adjusted to exclude potentially nonconforming activities to protect the values associated with

these special resources. We would like to work with the committee on amendments to address these concerns.

### *Recreation*

Title IX of the bill would, for a 10-year period, provide for retention of land use fees from special use authorizations, recreation residences, resorts (including winter recreation resorts), communication uses, linear rights-of-way, and other special uses. Revenues would be held in a special account for expenditure toward a variety of purposes, such as installation, repair, maintenance, and enhancement related to visitor enjoyment, access, and health and safety.

We recognize the importance of outdoor recreation to the social and economic well-being of the Mount Hood region today and into the future. We share the sponsors' concerns with the challenges of managing complex and often conflicting recreation values and uses. However, the new fee retention authority for the Mount Hood National Forest as specified in the legislation is objectionable. The inclusion of new authority for retention and expenditure of land use fees would result in a loss of Treasury receipts which are used to fund ongoing programs.

The proposed legislation would provide for the establishment of a Mount Hood National Forest Recreational Working Group that would be exempt from the Federal Advisory Committee Act (FACA). This working group would provide advice on planning and implementing recreational enhancements on the Mount Hood National Forest, including advice on how the retained fees should be expended. The FLREA already requires the creation of a Recreational Advisory Committee, with similar membership. We believe creation of any additional advisory council would be administratively burdensome and costly and would like to work with the Committee to develop a means to address the objectives of this provision.

S. 647 would designate a Mount Hood National Recreation Area (NRA). The Administration supports this designation, which recognizes the variety of recreational activities that visitors currently enjoy in the proposed area. We also appreciate the significant changes in language reflected in this bill in response to Administration concerns with language in previous versions. We suggest that some of the smaller isolated tracts now proposed for wilderness would be better protected as additions to the proposed national recreation areas as an alternative to wilderness designation.

The bill proposes only the Mount Hood NRA, although the maps reference two additional national recreation areas: the Fifteenmile Creek NRA, and the Shellrock Mountain NRA. As mapped, the Mount Hood NRA overlaps the proposed Badger Creek Wilderness (3,004 acres), the proposed Barlow Butte Wilderness Area (1,973 acres) and the proposed Twin Lakes Wilderness Area (6,359 acres). This dual designation would prove difficult to man-

age and could also be confusing to the public. We suggest that national recreation area designation for all of these areas is most appropriate. The bill should be amended to reflect the designation of the three separate national recreation areas referenced on the maps.

### *Transportation*

The Administration supports collaboratively participating with the State of Oregon, local governments, and Federal departments in the development of a comprehensive, multi-modal transportation strategy for the Mount Hood region. We do not support language contained in Section 402(e), which assigns responsibility for the transportation plan to the Secretary, or Section 402(f) which authorizes the appropriation of \$2 million to carry out the section. Existing funding mechanisms under section 1117 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) (P.L. 109-59) are already available to the Oregon Department of Transportation to address transportation planning. Indeed, the Mount Hood National Forest has recently secured \$100,000 of funding under section 3021 of SAFETEA-LU for the State to begin work on preliminary planning. The transportation plan will include a review and compilation of all existing studies related to transportation in the Mount Hood region.

In addition to the transportation plan, the bill would require the Secretary to conduct a study of the feasibility of establishing a gondola connecting Timberline Lodge to Government Camp and an inter-modal transportation center in close proximity to Government Camp. Given the complexity of conducting this study, we suggest that the Department of Transportation has the appropriate expertise to carry it out.

A 2001 gondola feasibility study conducted with funding from the Federal Highway Administration estimated the cost to construct a gondola from Government Camp to Timberline Lodge ranged from \$21 to \$26 million, and estimated the cost of the gondola from Government Camp to Mount Hood Meadows ranged from \$37 to \$56 million. We do not believe another study of the gondola feasibility would be needed and we would recommend including the completed study as part of the regional transportation planning process.

Section 404 authorizes the Secretary to provide State and Private Forestry program grants to Cascade Locks and Hood River County for the burial of power lines, but the use of these funds is inconsistent with the purposes of the State and Private Forestry program. Section 405 allows for activities not normally permitted in designated wilderness and wild and scenic rivers to repair, realign, expand capacity, and carry out other activities for Highway 35 and any other existing State highway. We would like to work with the sponsors to adjust the proposed wilderness and wild and scenic river boundaries to reduce the need for these

types of activities within these designations while still allowing the State to respond to unforeseen emergencies.

*Forest and watershed stewardship*

We support the objectives of the Forest Stewardship Assessment in both bills to determine forest health needs. The Forest Service is currently developing an integrated vegetation management approach similar to the approach provided for in the legislation. The ability to use existing information and processes would expedite developing a forest stewardship assessment consistent with other agency efforts. However, the legislation requires commencement of implementation of the stewardship assessment projects within a limited time frame, and the Department is concerned this requirement will redirect other available funds allocated to meet higher priority needs. The bill, if enacted, therefore would require the Forest Service to utilize existing funds and displace other, more critical, ongoing work. Again, we would like to work with the committee to address this concern.

We support the concept of assessing the amount of long-term sustainable biomass available in the Mount Hood National Forest. The Forest Service has already begun a study as part of a recent memorandum of understanding signed by the Confederated Tribes of Warm Springs and others to analyze the supply of biomass for a tribal co-generation plant. The bill restricts biomass material to by-products from forest restoration activities. We would like to work with the sponsors to expand the definition of biomass to be consistent with the language in the memorandum of understanding with the Confederated Tribes of Warm Springs.

*Local and tribal relations*

The bills would encourage the Secretary of Agriculture to cooperate with the Tribes, Federal and State entities, and local communities. We support this general direction. We also support the requirement to identify, establish, develop, and manage priority-use areas for gathering of first foods by member of Indian tribes with treaty reserved rights (as provided in section 802(a) of S. 647.

*Land conveyances*

We appreciate the sponsors' efforts to resolve long-standing conflicts on Mount Hood with the Cooper Spur Government Camp land exchange proposal, as well as the changes in the bill to address some of the valuation-related concerns expressed in previous testimony.

While we support the direction in S. 647 to use nationally recognized appraisal standards, the Administration objects to the bill's requirements that depart from those standards. The Administration also objects to the additional requirements that the date of valuation be the spring of 2005 and that appraisal be approved by other parties, namely the County and Mt. Hood Meadows. To

protect the public's investment, appraisals performed for any proposed exchange should be done as close to the date of transaction as is feasible. Approval of appraisals is normally solely at the discretion of the Secretary. Mount Hood Meadows and Clackamas County should have the opportunity to provide the appraisers with market information, but should not share approval authority with the Secretary because of their potential interest in the outcome. We have a number of suggestions for improving the land exchange proposal.

First, we recommend reconsideration of the requirements that the Forest Service would take possession of an aging infrastructure, solicit a new concessionaire, and be prohibited from subsequent land or facility adjustments, because all could be problematic.

Second, we suggest consideration of alternative exchange lands. The 770 acres of private lands offered to the United States at Cooper Spur do not have national forest characteristics. They are heavily disturbed, fragmented and interspersed with roads, power-lines, and subdivisions.

Third, we recommend re-evaluation of the unique resource implications of privatizing the two parcels of land at Government Camp. We have other concerns regarding the Cooper Spur land exchange process and would like to work with the committee on amendments to address these concerns.

The Administration supports the proposed exchange with the Port of Cascade Locks to improve the Pacific Crest National Scenic Trail. The administration does not object to the Hunchback Mountain exchange with Clackamas County. We note that this exchange would require a legislated adjustment to the Mt. Hood National Forest Boundary and we would work with the committee to address this.

Sec. 503(f)(1) provides that it is the intent of Congress that the Secretary complete all legal and regulatory processes required for the exchange of Federal land and the non-Federal land in 16 months. This timeframe is unachievable given the applicable requirements for environmental studies, public participation, evaluation of alternatives, Endangered Species Act consultation, additional third-party consultation requirements in this legislation, and the limitations in sharing costs with the proponents, as well as conflicts with the Region's existing priorities for critical land exchange work.

In addition, the requirement that provisions with legislated outcomes, such as the land exchanges, be subject to participatory environmental laws such as the National Environmental Policy Act is not consistent with the requirements of such laws since there is no ability for the agency or the public to effect adjustments to the proposal because the outcome is specified in the legislation.

The Administration could support relevant conveyances if bill language is amended to address these concerns.



*Summary*

In summary Mr. Chairman, while we are encouraged by the sponsor's efforts on behalf of the Mount Hood National Forest, the Administration has significant concerns with S. 647 as presently written. Nevertheless, we see a great potential, working with the many stakeholders of the region and beyond, to meet the bills objectives to protect for future generations the recreation opportunities and resource values of the Mount Hood National Forest. We believe we can accomplish these objectives using existing authorities as well as some of the provisions of the bill. We strongly support negotiated agreements on land management and we are committed to continuing to work on the sections where we have concerns.

\* \* \* \* \*

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 647, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**A. WILD AND SCENIC RIVERS ACT**

(PUBLIC LAW 90-542; APPROVED OCTOBER 2, 1968)

AN ACT To provide a National Wild and Scenic Rivers System, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

That (a) this Act may be cited as the "Wild and Scenic Rivers Act".

\* \* \* \* \*

SEC. 3(a). The following rivers and the land adjacent thereto are hereby designated as components of the national wild and scenic rivers system:

(167) *WHITE SALMON RIVER, WASHINGTON.—*

\* \* \* \* \*

(168) *BLACK BUTTE RIVER, CALIFORNIA.—*

\* \* \* \* \*

[(167)] (169) *MUSCONETCONG RIVER, NEW JERSEY.—*

\* \* \* \* \*

(170) *SOUTH FORK CLACKAMAS RIVER.—The 4.2-mile segment of the South Fork Clackamas River from its confluence with the East Fork of the South Fork Clackamas to its confluence with the Clackamas River, to be administered by the Secretary as a wild river.*

(171) *EAGLE CREEK.—The 8.3-mile segment of Eagle Creek from its headwaters to the Mount Hood National Forest bound-*

ary, to be administered by the Secretary of Agriculture as a wild river.

(172) *MIDDLE FORK HOOD RIVER.*—The 3.7-mile segment of the Middle Fork Hood River from the confluence of Clear and Coe Branches to the north section line of section 11, township 1 south, range 9 east, to be administered by the Secretary of Agriculture as a scenic river.

(173) *SOUTH FORK ROARING RIVER.*—The 4.6-mile segment of the South Fork Roaring River from its headwaters to its confluence with Roaring River, to be administered by the Secretary of Agriculture as a wild river.

(174) *ZIG ZAG RIVER.*—The 4.3-mile segment of the Zig Zag River from its headwaters to the Mount Hood Wilderness boundary, to be administered by the Secretary of Agriculture as a wild river.

(175) *FIFTEENMILE CREEK.*—

(A) *IN GENERAL.*—The 11.1-mile segment of Fifteenmile Creek from its source at Senecal Spring to the southern edge of the northwest quarter of the northwest quarter of section 20, township 2 south, range 12 east, to be administered by the Secretary of Agriculture in the following classes:

(i) the 2.6-mile segment from its source at Senecal Spring to the Badger Creek Wilderness boundary, as a wild river;

(ii) the 0.4-mile segment from the Badger Creek Wilderness boundary to the point 0.4 miles downstream, as a scenic river;

(iii) the 7.9-mile segment from the point 0.4 miles downstream of the Badger Creek Wilderness boundary to the western edge of section 20, township 2 south, range 12 east as a wild river; and

(iv) the 0.2-mile segment from the western edge of section 20, township 2 south, range 12 east, to the southern edge of the northwest quarter of the northwest quarter of section 20, township 2 south, range 12 east as a scenic river.

(B) *INCLUSIONS.*—Notwithstanding section 3(b) of this Act, the lateral boundaries of both the wild river area and the scenic river area along Fifteenmile Creek shall include an average of not more than 640 acres per mile measured from the ordinary high water mark on both sides of the river.

(176) *EAST FORK HOOD RIVER.*—The 13.5-mile segment of the East Fork Hood River from Oregon State Highway 35 to the Mount Hood National Forest boundary, to be administered by the Secretary of Agriculture as a recreational river.

(177) *COLLAWASH RIVER.*—The 17.8-mile segment of the Collawash River from the headwaters of the East Fork Collawash to the confluence of the mainstream of the Collawash River with the Clackamas River, to be administered in the following classes:

(A) the 11.0-mile segment from the headwaters of the East Fork Collawash River to Buckeye Creek, as a scenic river; and

(B) the 6.8-mile segment from Buckeye Creek to the Clackamas River, as a recreational river.  
 (178) FISH CREEK.—The 13.5-mile segment of Fish Creek from its headwaters to the confluence with the Clackamas River, to be administered by the Secretary of Agriculture as a recreational river.

## B. COLUMBIA RIVER GORGE NATIONAL SCENIC AREA ACT

(PUBLIC LAW 99—663; APPROVED NOVEMBER 17, 1986)

AN ACT To protect and provide for the enhancement of the resources of the Columbia River Gorge, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SEC. 1. This Act may be referred to as the “Columbia River Gorge National Scenic Area Act”.

\* \* \* \* \*

SEC. 13(a). WATER RESOURCE PROJECTS.—The following rivers and streams shall be subject to the same restrictions on the licensing, permitting, and exempting from licensing and the construction of water resource projects as provided for components of the National Wild and Scenic Rivers System pursuant to section 7(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1278(a)):

\* \* \* \* \*

(4) the Hood River, Oregon, [for a period not to exceed twenty years from the date of enactment of this Act,] if such facility impounds or diverts water other than by means of a dam or diversion existing as of date of enactment of this Act; and

\* \* \* \* \*